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Attorneys for CENTEX HOMES

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

CENTEX HOMES, a Nevada general  
partnership,

Plaintiff,

v.

ZURICH AMERICAN INSURANCE  
COMPANY, an Illinois corporation;  
EVEREST NATIONAL INSURANCE  
COMPANY, a Delaware corporation;  
UNDERWRITERS AT LLOYDS LONDON,  
a London corporation; LEXINGTON  
INSURANCE COMPANY, a Delaware  
corporation; ADMIRAL INSURANCE  
COMPANY, a New Jersey corporation,

Defendants.

Case No. 2:16-cv-01634-GMN-CWH

**STIPULATION TO LIFT STAY; AND**  
**STIPULATED [PROPOSED]**  
**DISCOVERY PLAN AND SCHEDULING**  
**ORDER**

**SPECIAL SCHEDULING REVIEW**  
**REQUESTED**

The above-named parties, by and through their respective counsel of record, hereby stipulate and agree to lift the stay of discovery in the above-captioned litigation that was entered by the Court on December 21, 2016. (ECF No. 28). The Court stayed discovery pending a ruling on Lexington Insurance Company's ("Lexington") motion to dismiss Centex Homes' ("Centex") complaint (ECF No. 11). Lexington's motion was denied in part, granted in part with leave to Centex to amend its complaint on September 29, 2017. (ECF No. 48). On October 13, 2017, Centex filed an amended complaint. (ECF No. 50). Prior to the stay being entered, the parties had not performed any discovery. Now that the Court has issued a ruling on Lexington's motion, there

1 is no reason to continue the stay of discovery in this case. The parties therefore stipulate to lift the  
2 stay.

3 The parties further hereby submit their Stipulated Discovery Plan and Scheduling Order  
4 pursuant to Fed. R. Civ. P. 26(f), Local Rule 26-1 for the Court's approval.

5 **1. Meeting.**

6 Pursuant to Fed. R. Civ. P. 26(f) and LR 26-1, a meeting was held telephonically on,  
7 December 2, 2016 and was attended by: Sarah Odia for Centex Homes, Josh Zlotlow for  
8 Lexington Insurance Company, Benjamin Carman for Interstate Fire & Casualty Company, David  
9 Astengo for Everest National Insurance Company, and Ramiro Morales for Zurich American  
10 Insurance Company.

11 **2. Initial Disclosures.**

12 The parties will exchange the information required by Fed. R. Civ. P. 26(a)(1) no later than  
13 **December, 15 2017.**

14 **3. Discovery Plan.**

15 The parties jointly propose to the Court the following discovery plan:

16 **Subject of Discovery.** Discovery will be needed on all issues raised in Centex's  
17 Complaint and the parties' defenses, including, affirmative defenses, including but not limited to  
18 the following subjects: Centex's claims for breach of contract, breach of the covenant of good  
19 faith and fair dealings, declaratory relief, breach of Nevada's Unfair Claims Practices Act;  
20 damages, including computations and amounts, and information relating to all potentially  
21 applicable insurance available to Centex

22 **Should discovery be phased, limited or focused:** Not at this time, with the exception that  
23 discovery directed at issues pertaining to bad faith and/or punitive damages should be deferred  
24 until after resolution of the remaining claims, but each party reserves the right to make a motion of  
25 the Court on this issue at any time.

26 **Disclosure of electronically-stored information ("ESI"):** All disclosures and/or  
27 productions of documents will be served in electronic format on CD-ROM or DVD-ROM in .pdf  
28 or .tiff format.

1           **4. Discovery Cut-Off Date.**

2           As required by LR 26-1(b)(1), the first defendant appeared on October 19, 2016, the date  
3 on which Lexington filed its motion to dismiss Centex's complaint (ECF No. 19). However,  
4 discovery was stayed on December 21, 2016. (ECF No. 28). The parties performed no discovery  
5 prior to the stay. Centex's amended complaint was filed on October 13, 2017. (ECF No. 15). The  
6 first answer to Centex's amended complaint was filed on October 27, 2017. (ECF No. 53). The  
7 parties require 180 days from the date on which the first answer to Centex's amended complaint  
8 was filed to perform discovery. Discovery shall close on **June 25, 2018**.

9           **5. Amending the Pleadings and Adding Parties.**

10          The parties shall have until **March 26, 2018** to amend pleadings or add parties. This is  
11 ninety days prior to the close of discovery.

12          **6. Fed. R. Civ. P. 26(a)(2) Disclosure (Experts).**

13          Disclosures identifying experts and final expert reports shall be made by **April 25, 2018**.  
14 This is 60 days before the discovery cut-off date. Rebuttal expert disclosures shall be made by  
15 **May 25, 2018**. This is 30 days after the initial disclosure of experts.

16          **7. Dispositive Motions.**

17          The parties shall have until **July 24, 2018** to file dispositive motions. This is 30 days after  
18 the close of discovery.

19          **8. Pretrial Order.**

20          The Joint Pretrial Order shall be filed no later than **August 23, 2018**. This is less than thirty  
21 (30) days after the date set for the filing of dispositive motions. In the event dispositive motions  
22 are filed, the date for filing the Joint Pretrial Order shall be suspended until thirty (30) days after  
23 decision on the dispositive motions or by further order of the Court. The disclosures required by  
24 Fed. R. Civ. P. 26(a)(3) and any objections to them must be included in the joint pretrial order.

25          **9. Stipulations Regarding Limitations or Conditions or Additional Discovery.**

26          The parties will proceed to engage in and supplement all discovery as permitted under the  
27 Federal Rules of Civil Procedure and Local Court Rules of the District Court of Nevada,  
28 including, but not limited to depositions, interrogatories, requests for production of documents,

requests for admissions and expert disclosures.

**10. Later Appearing Parties.**

A copy of this discovery plan and scheduling order shall be served on any person served after it is entered, or, if additional Defendants shall appear, within five (5) days of their first appearance. This discovery plan and scheduling order shall apply to such later-appearing parties, unless the Court, on motion and for good cause shown, orders otherwise.

**11. Extension or Modification of the Discovery Plan and Scheduling Order.**

Applications to extend any date set by the discovery plan/scheduling order shall be received by the Court twenty-one (21) days before the date fixed for completion of discovery, or within twenty-one (21) days before the expiration of any extension thereof that may have been approved by the Court.

**12. Alternative Dispute Resolution/Mediation.**

The undersigned attorneys affirm they have met and conferred about the possibility of using alternative dispute resolution processes, including arbitration and mediation.

**13. Alternative Forms of Case Disposition.** The undersigned parties certify that they have considered consent to trial by a magistrate judge under 28 U.S.C. §63(c) and Fed. R. Civ. P. 73 and the use of the Short Trial Program.

Dated: November 29, 2017

PAYNE & FEARS LLP

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Dated: November 29, 2017

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INSURANCE COMPANY

Dated: November 29, 2017

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INSURANCE COMPANY

Dated: November 29, 2017

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Dated: November 29, 2017

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Attorneys for Defendant CERTAIN  
UNDERWRITERS AT LLOYDS LONDON

**ORDER**

IT IS SO ORDERED.  
December 1, 2017

DATED: \_\_\_\_\_

  
\_\_\_\_\_  
UNITED STATES MAGISTRATE JUDGE